

**ZB# 73-7**

**Herbert Doynow**

**(no SBL given)**

Public Hearing:

Apr. 16th -  
8 p.m. -

Notice sent to Paper.  
(All fees Paid.)

OCPD informed 3/4/73

file

73-17  
Herbert  
Daynow

Received  
9/15/73 - 1:40 P.M.  
B.D.

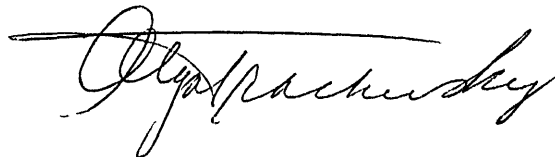
73-7  
Herbert  
Daymon


**PUBLIC NOTICE OF HEARING BEFORE THE ZONING BOARD OF APPEALS**  
**PLEASE TAKE NOTICE** that the Zoning Board of Appeals of the Town of New Windsor, New York will hold a public hearing pursuant to Section 48-33 A of the Zoning Ordinance on the following proposition:  
 Appeal No. 73-7  
 Request of **HERBERT DOYNOW** for a Variance of the regulations of the Zoning Ordinance, to permit undersized parcel in DS District for retail store and to obtain variance for existing sideyard, front yard and building height, being a Variance of Article IV, Section 48-14, for property owned by him situated as follows: South side Route 207, just west of Stewart Field entrance.  
**SAID HEARING** will take place on the 16th day of April, 1973, at the New Windsor Town Hall, 555 Union Avenue, New Windsor, N.Y., beginning at 8:00 o'clock P.M.  
**FRED WYGANT** Chairman  
**By: PATRICIA DELIO** Secretary  
 Apr. 6.

State of New York  
 County of Orange, ss:

Olga Trachewsky , being duly sworn deposes and says that <sup>she</sup> ~~he~~ is ..... Principal Clerk..... of Newburgh-Beacon News Co., Inc., Publisher of The Evening News. a daily newspaper published and of general circulation in the Counties of Orange and Dutchess, and that the notice of which the annexed is a true copy was published ....  
 ..... One Time .....  
 in said newspaper, commencing on the ..... 6th ..... day of April ..... A.D., 19 73 , and ending on the ..... 6th ..... day of April ..... A.D., 19 73

Subscribed and sworn to before me this  
 ..... 9th ..... day of April ..... 19 73





Notary Public of the State of New York, County of Orange.  
 MY COMMISSION EXPIRES MARCH 30, 19 74

Adopted 12/20/65

APPLICATION FOR VARIANCE

Application No. 73-7

Date: March 27, 1973

TO THE ZONING BOARD OF APPEALS OF THE TOWN OF NEW WINDSOR, NEW YORK

I (~~XXX~~) HERBERT DOYNOW of Dogwood Lane (no #) MD 16  
(Street & Number)

Newburgh

New York  
(State)

HEREBY MAKE

APPLICATION FOR A VARIANCE:

A. Location of the Property South side Route 207 west of Stewart Field  
(Street & Number) (Zone)

B. Provision of the Zoning Ordinance Applicable: (Indicate the article, section, sub-section and paragraph of the Zoning Ordinance applicable, by number. Do not quote the ordinance.) Article IV Section 48-14 C.

C. NOTE: NECESSARY FINDINGS: Before any Variance is granted, the Zoning Board of Appeals must find all of the following conditions to be present:

1. Conditions and circumstances are unique to the applicant's land, structure or building and do not apply to the neighboring lands, structures or buildings in the same zone because: variance applied for results from structures existing prior to zoning and the subdivision of the land resulting in present parcel size pre-existed zoning.
2. Strict application of the provisions of this ordinance would deprive the applicant of a reasonable use of the land, structure or building in a manner equivalent to the use permitted to be made by other owners of their neighboring lands, structures or buildings in the same zone because: if pre-existing or nonconforming size of parcel and location of structures were not permitted by variance, applicant could not use his land for any purpose in the DS District.
3. The unique conditions and circumstances are not the result of actions taken of the applicant subsequent to the adoption of the Ordinance because: all present circumstances for which variance is being sought were created prior to the adoption of zoning.

4. Relief, if approved, will not cause substantial detriment to the public good or impair the purposes and intent of this Ordinance because: use of the land and all other standards under bulk and parking regulations will be complied with.
5. Relief, if approved, will not constitute a grant of special privilege inconsistent with the limitations upon other properties in the zone because: area variance should be granted where circumstances exist creating practical difficulty or unnecessary hardship in carrying out the strict letter of the ordinance.
- D. Describe in detail how the property is to be used and submit plans or sketches in duplicate.
- Subject property will be used for a retail sales business in accordance with accompanying site development plan. Subject application for the above listed variances are necessary to secure approval of the same by the Planning Board.
- E. Application to be accompanied by two checks, one payable to the Town of New Windsor in the amount decided by the Board and the second check payable to the Secretary for taking the public hearing minutes. Applications to be returned to: Secretary of ZBA.
- F. NOTICE OF HEARING: Applicant agrees to send notice of any public hearing via registered or certified mail to all abutting land owners as required by Sec. 9.4.1. of the Ordinance.
- G. If the property in question is located within a radius of 500 ft. of an adjoining municipality, the Board should be notified. Also, have your attorney check Sec. 239 l&M of the Gen. Municipal Law to see if it applies. If so, notify the Orange County Planning Board by sending them an application.

Dated: March 27, 1973

[Signature]  
Signature of Applicant

STATE OF NEW YORK) SS.:  
COUNTY OF ORANGE)

Sworn to on this 28 day of March, 19 73.

Kathryn J. West  
(Notary Public) KATHRYN F. WEST  
Notary Public, State of New York  
Qualified in Orange County  
Term expires Mar. 30, 1977

233 Liberty St, Albany, NY  
Address  
562-3546  
Telephone Number

(DO NOT WRITE IN THIS SPACE)

Application No. 73-7  
Date of Hearing Apr. 18, 1973  
Date of Decision May 7, 1973

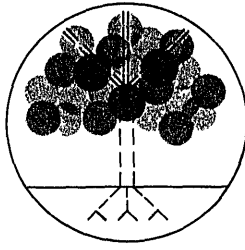
Date Received Mar. 27, 1973  
Notice Published Apr. 8, 1973

DECISION:

Approved

# Department of Planning

Peter Garrison, AIP, Commissioner  
Edwin J. Garling, AIP, Deputy Commissioner



The County Building  
Goshen, New York 10924  
(914) 294-5151

# County of Orange

Louis V. Mills, County Executive

April 19, 1973

Mr. Fred Wygant, Jr., Chairman  
c/o Mrs. Patricia Delio, Secretary  
Town of New Windsor Zoning Board of Appeals  
7 Franklin Avenue  
New Windsor, New York 12550

RE: Area variances - Doynow  
Route 207  
Our File No. 73-118-M

Dear Mr. Wygant:

We are in receipt of the above application pending before your Board. In accordance with the applicable provisions of Sections 239 1 and m of the General Municipal Law, we have made our review and find no objection to the granting of the variances.

Very truly yours,

Peter Garrison  
Commissioner of Planning

Reviewed by:  
Joel Shaw  
Senior Planner

JS/bd

cc: D. Bello  
J. Tallarico

----- -X

In the Matter of the Application of:  
HERBERT DOYNOW to the ZONING BOARD  
OF APPEALS OF THE TOWN OF NEW :  
WINDSOR, ORANGE COUNTY for a :  
Variance. :

----- -X

STATEMENT

Subject application is being made to secure area variances for property in the DS District along the south side of Route 207 just west of the Stewart Field entrance near Jackson Avenue. Specifically, the variances sought relate to the following:

1. Use within the DS District of the subject premises containing 1.847 acres where a 5 acre lot area is required.

2. Use of the existing structure which has a front yard and side yard setback of 24' and 25' respectively where 100' and 50' are required.

3. Construction of an addition to the existing structure to the rear at a heighth not in excess of the heighth of the existing structure which violates the building heighth requirement of 4" per foot of distance to the nearest lot line.

Applicant is a contract purchaser from owners who acquired the subject premises in the spring of 1956 by a deed from LeRoy H. Coleman and Francis G. Coleman dated March 15, 1956 and recorded in the Orange County Clerk's Office on May 3, 1956 in Liber 1384 cp 530. Reference is



made to said deed and the recording thereof as proof of ownership as of that date by the present owners, contract sellers. There have been no selloffs or subdivision of the premises since their acquisition and the applicant is under contract to acquire the premises by the same description contained in the above referred to deed.

Applicant's purpose to acquire the lands in question is to make certain improvements and to devote the property to retail sales use after application to the Planning Board of the Town of New Windsor for site development plan approval. Living quarters will be provided also.

Submitted herewith is the statement of the list of surrounding properties within 500' of the subject premises prepared by the Sole Assessor of the Town of New Windsor for the application together with the receipts of the certified mailing of the notices of hearing for each listed property owner.

#### RATIONALE IN SUPPORT OF GRANTING VARIANCES

Section 267 of the Town Law provides in part:

"...Where there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of such ordinances, the Board of Appeals shall have the power in passing upon appeals, to vary or modify the application of any of the regulations or provisions of such ordinance relating to the use, construction or alteration of buildings or structures, or the use of land, so that the spirit of the ordinance shall be observed, public safety and welfare secured and substantial justice done."

The Town of New Windsor Zoning Ordinance by Article IX, Section 48-32B adopts Section 267 as the basis for

granting variances. Subject application is not a use variance since under Section 48-10B of the ordinance retail stores and consumer shops are permitted in a DS District upon approval of site development plan by the Planning Board.

The use of the subject property will be identical to that of any other parcel in the DS District provided the undersized area variance, the side and front yard setback variances and the building height variance for the new addition are approved.

Each of these so-called area variances may be granted pursuant to both Town Law Section 267 and the Town of New Windsor Zoning Ordinance provisions on the grounds of practical difficulty or unnecessary hardship.

The question before the Board of Appeals in this proceeding then is whether or not there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of the Zoning Law, and, if there are, the Board has the authority pursuant to Town Law Section 267 and Town of New Windsor Zoning Law Section 48-10 to vary or modify the strict letter of the Zoning Law and the application of any of its regulations relating to use, construction or alteration of buildings or the use of land provided the spirit of the Zoning Law is observed, that public safety and public welfare are secured and that substantial justice will be done.

As to the undersize of the lot, this condition has ex-

isted since 1956. The 1.847 acre size of the parcel has existed since that time and remains so today. Zoning which requires a 5 acre minimum in the DS District was not in existence at the time of the acquisition of the lands in 1956 and the property is therefore nonconforming as to lot area required.

As to the front and side yard setbacks, the same reasoning is applicable. The present owners erected the existing structure soon after its acquisition and the present side yard and front yard setback requirements came subsequent to such construction. Submitted herewith is a statement of the Town of New Windsor Assessor to confirm the existence of the structure as early as 1956 or 1957.

The request to permit the new addition to exceed the height rule of 4" for every one foot of distance to the nearest sideline seems supportable since application of the rule would prevent a building no higher than some 96" to 100". Since the present building has established the skyline on this parcel, any addition of no greater height would seem logical and permissible.

The size of the lot for so many years is such that there is no way to overcome the physical condition of undersize and the applicant or the owners cannot be compelled to acquire additional lands to conform even if the same were available and were possible. As to front yard setback,

the public highway bars such a possibility in any event. None of these conditions result from the applicant's or the owners' actions subsequent to the adoption of the present zoning requirements.

Strict application of the requirements and provisions of the ordinance in this case would deprive the owner of the highest and best use of the land in the district in which the lands are located and it therefore becomes necessary and proper to grant the variance for the reasonable use or return on the land. The variances sought are restricted to the minimum required by the non-conforming conditions found which pre-existed the present requirements in each case.

There can be no violation of the spirit of the zoning ordinance to grant the requested variances since the use of the property will be identical to all other conforming parcels in the DS District and it cannot therefore be said to be a radical departure from the ordinance requirements. The neighborhood cannot conceivably suffer from permitting existing structures to be used for purposes that new structures, placed in a somewhat different location on the same parcel, could be used for as a matter of right. The public interest and public welfare will not be harmed by the granting of the subject requests for all of the foregoing reasons.

Wherefore, it is submitted that to deny the variances

requested and to deny the commitment of the property to those uses called for in the district in which the property is located or to require the moving or demolition of the existing structure to conform to the setbacks would be a practical difficulty and unnecessary hardship all out of proportion to what the statute and the zoning ordinance contemplates as a basis to grant area variances and would be an improper and unreasonable interpretation of the facts and circumstances surrounding the subject application and of the whole rationale supporting the granting of area variances.

Accordingly it is respectfully requested that the variances sought for be granted.

Respectfully submitted,

SCOTT & HOYT & DRAKE  
Attorneys for Applicants  
Office & P.O. Address  
233 Liberty Street  
Newburgh, New York 12550

Public Hearing 8pm. 4/16/73 - Herbert Doynow

Spectators Name

Rita Wood

Address

Jackson Ave. R. 1 #2



OFFICE OF THE ASSESSOR

TOWN OF NEW WINDSOR

Chairman  
Ellsworth E. Weyant  
555 Union Avenue  
New Windsor, New York 12550  
(914) 565-8808

April 12, 1973

Mr. Julius Hoyt  
Attorney at Law  
233 Liberty Street  
Newburgh, New York 12550

RE: Paul A. & Caroline Pfister property  
Route 207 New Windsor, New York

Dear Mr. Hoyt:

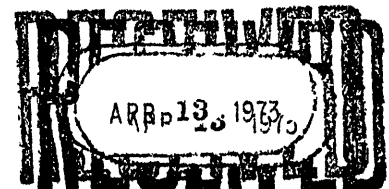
According to my records, the Paul Pfister house  
on Route 207 was built in 1956.

If you have any further questions regarding this  
matter, please contact this office.

Very truly yours,

*Ellsworth E. Weyant*  
ELLSWORTH E. WEYANT  
Sole Assessor  
Town of New Windsor

EEW/pk



7 Franklin Avenue  
New Windsor, N.Y.  
April 2, 1973

Orange County Planning Department  
County Government Center  
Goshen, N. Y. 10924

Attn: Mr. Joel Shaw

RE: Application for Variance of  
Herbert Doynow  
Application No. 73-7

Dear Mr. Shaw:

Enclosed please find application for variance in the above entitled matter. I have also enclosed a copy of the plan.

The above public hearing will take place on April 16th at 8 p.m.

We would appreciate a response from you regarding this matter.

Thank you.

Yours truly,

Patricia Delio, Secretary

/pd

Enc.





OFFICE OF THE ASSESSOR

TOWN OF NEW WINDSOR

Chairman  
Ellsworth E. Weyant  
555 Union Avenue  
New Windsor, New York 12550  
(914) 565-8808

March 26, 1973

Paul A. & Caroline Pfister  
RD#2 Jackson Avenue  
New Windsor, New York 12550

Dear Mr. & Mrs. Pfister:

According to my records, the attached list of property owners are within the five hundred (500) feet of the property in question.

The charge for this service is \$15.00. Please remit same to the Town Clerk, Town of New Windsor.

Very truly yours,

ELLSWORTH E. WEYANT  
Sole Assessor  
Town of New Windsor

EEW/pk  
enc.



OFFICE OF THE ASSESSOR

TOWN OF NEW WINDSOR

---

Chairman  
Ellsworth E. Weyant  
555 Union Avenue  
New Windsor, New York 12550  
(014) 565-8808

Sisters of the Presentation of the Blessed Virgin Inc.  
MD#29 Route 207  
New Windsor, New York 12550

Dill, Marion  
Sycamore Drive RD#3  
Newburgh, New York 12550

Wood, John Michael & Rita Delores  
RD#2 Jackson Avenue  
New Windsor, New York 12550

Bruyn, George S. Jr. & Joyce  
RD#2 Jackson Avenue  
New Windsor, New York 12550

MacDowell, Ruth H.  
P.O. Box 2006  
Newburgh, New York 12550

Baeuerle, E.E. Etal  
C/O Dr. E.M. Schlick  
65 South Little Tor Road  
New City, New York 10956

Little Britain School  
Washingtonville Central School District  
52 West Main Street  
Washingtonville, New York 10992

Respectfully submitted,

ELLSWORTH E. WEYANT  
Sole Assessor  
Town of New Windsor



OFFICE OF THE BUILDING & ZONING INSPECTOR  
TOWN OF NEW WINDSOR

---

Howard R. Collett  
555 Union Avenue  
New Windsor, New York 12550  
(914) 565-8808

March 26, 1973

Zoning Board of Appeals  
Town of New Windsor  
555 Union Avenue  
New Windsor, New York 12550

Gentlemen:

I have denied a request of Mr. Herbert Doynow to change the use of an existing dwelling to that of a retail sales use. The property is located in a D.S.-Designed Shopping Zone.

The enclosed letter from Mr. Hoyt, Attorney for Mr. Doynow is self explanatory.

Will you please notify Mr. Doynow of the date he will be on your agenda.

Very truly yours,

A handwritten signature in cursive script that reads "Howard R. Collett".

HOWARD R. COLLETT  
Building & Zoning Inspector  
Town of New Windsor

HRC/pk  
enc.

SCOTT & HOYT & DRAKE  
ATTORNEYS AND COUNSELORS AT LAW

J BRADLEY SCOTT (1894-1962)  
JULIUS LARKIN HOYT  
RICHARD J DRAKE  
LORRAINE COTÉ DEVERS

POST OFFICE BOX 511  
233 LIBERTY STREET  
NEWBURGH, NEW YORK 12550  
(914) 562-3540

March 22, 1973

Mr. Howard Collett, Building Inspector  
Town of New Windsor Town Hall  
555 Union Avenue  
New Windsor, New York 12550

Re: Pfister to Doynow  
1.847 Acre Parcel South Side 207

Dear Mr. Collett:

We enclose herewith an application made on behalf of Herbert Doynow who resides on Dogwood Lane in the Town of Newburgh, Orange County, New York and whom we represent and who is the contract purchaser of a 1.847 acre parcel from Paul A. Pfister and Caroline Pfister, husband and wife, and which contract is subject to the obtaining of a variance so that the property can be used for retail store purposes in the DS District.

We have submitted a plot plan of the premises to Mr. Kessler, engineer for the Planning Board to seek his advice as to specifically what variances would be required in addition to the area variance as to acreage to avoid having to come before the Zoning Board of Appeals a second time.

From the application you will note that the following variances are being sought:

1. Area variance to permit the use of the 1.847 acre parcel in a district which requires 5 acres as a minimum.
2. Variances as to front yard and side yard setbacks which are caused by the existing structure which pre-existed the current zoning.
3. Building height variance which in the DS District permits 4 inches of height per linear foot of distance from a building to the nearest lot line. Our computation indicates that the proposed addition could not be more than 10' in height under this formula and the application seeks to permit the new structure to be as high as, but no higher than, the existing structure.

SCOTT & HOYT & DRAKE

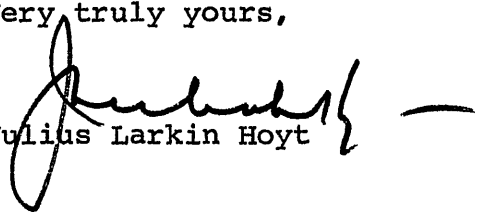
Mr. Collett

-2-

March 22, 1973

We would request that this matter be put on the April 2nd meeting agenda so that a public hearing can be arranged for.

Very truly yours,

  
Julius Larkin Hoyt

JLH:mc  
Encl.

cc: Richard Lease  
Herbert Doynow

TOWN OF NEW WINDSOR  
555 Union Avenue  
565-8808

DATE March 16, 1973

APPLICATION is hereby made for the following:

Agenda X Service \_\_\_\_\_

1. Name Herbert Doynow

Address Dogwood Lane, Dogwood Hills, Town of Newburgh

Telephone number c/o Scott & Hoyt & Drake, Esqs. 233 Liberty Street,  
Newburgh, New York JO2-3540

Are you the owner of the property? No - contract purchaser

2. Briefly describe intention (or attach) and location of property:  
Subject property is a 1.847 acre parcel on south side of Route 207 just west of Stewart Field entrance in the DS District. Subject application is made for area variance against the 5 acre minimum required and for front & side yard setbacks of existing structure that predated zoning and for a building height variance to permit an additional attached structure to be built to a height not to exceed the height

3. PLANNING BOARD of the existing structure so that application can be made to the Planning Board for site development plan  
\_\_\_\_\_ Site Plan Preliminary Meeting approval.

\_\_\_\_\_ Subdivision Preliminary Meeting

\_\_\_\_\_ Informational Meeting

AGENDA DATE \_\_\_\_\_

4. ZONING BOARD OF APPEALS

73-1 \_\_\_\_\_ Interpretation of Ordinance or Map

X \_\_\_\_\_ Variance (Notify P/B -plans if necessary)

\_\_\_\_\_ Informational meeting

AGENDA DATE \_\_\_\_\_

5. BUILDING PERMIT

\_\_\_\_\_ Planning Board action needed

\_\_\_\_\_ Z.B.A. action needed

\_\_\_\_\_ Site plan needed

\_\_\_\_\_ Subdivision approval needed

\_\_\_\_\_ Water, Sewer and Highway action needed

ACTION TAKEN:

I do hereby affirm that all fees, permits and charges  
applicable under the laws and ordinances of the State of New  
York and the Town of New Windsor shall be paid.

1. Name Herbert Doynow

Address Dogwood Lane, Dogwood Hills, Town of Newburgh

Telephone number c/o Scott & Hoyt & Drake, Esqs. 233 Liberty Street,  
Newburgh, New York JO2-3540

Are you the owner of the property? No - contract purchaser

2. Briefly describe intention (or attach) and location of property:

Subject property is a 1.847 acre parcel on south side of Route 207 just west of Stewart Field entrance in the DS District. Subject application is made for area variance against the 5 acre minimum required and for front & side yard setbacks of existing structure that predated zoning and for a building height variance to permit an additional attached structure to be built to a height not to exceed the height

3. PLANNING BOARD of the existing structure so that application can be made to the Planning Board for site development plan Site Plan Preliminary Meeting approval.

Site Plan Preliminary Meeting approval.

Subdivision Preliminary Meeting

## Informational Meeting

AGENDA DATE

- #### 4. ZONING BOARD OF APPEALS

### Interpretation of Ordinance or Map

**x**

Variance (Notify P/B -plans if necessary)

Informational meeting

AGENDA DATE

- ## 5. BUILDING PERMIT

Planning Board action needed

Z.B.A. action needed

Site plan needed

Subdivision approval needed

## Water, Sewer and Highway action needed

**ACTION TAKEN:**

I do hereby affirm that all fees, permits and charges applicable under the laws and ordinances of the State of New York and the Town of New Windsor will be paid and that any expenses for advertising of Public Hearing or meetings will be paid. Also any legal or engineering fees for review of this project.

**Signed:**

(APPLICANT)

**JULIUS LARKIN HOYT**  
**Scott & Hoyt & Drake, Esqs.**  
**233 Liberty Street**  
**Newburgh, New York 12550**

SCOTT & HOYT & DRAKE  
ATTORNEYS AND COUNSELORS AT LAW

J BRADLEY SCOTT (1894-1962)  
JULIUS LARKIN HOYT  
RICHARD J DRAKE  
LORRAINE COTÉ DEVERS

POST OFFICE BOX 511  
233 LIBERTY STREET  
NEWBURGH, NEW YORK 12550  
(914) 562-3540

March 28, 1973

Mrs. Patricia Delio, Secretary  
New Windsor Zoning Board of Appeals  
7 Franklin Avenue  
New Windsor, New York 12550

Re: Herbert Doynow - Variance

Dear Mrs. Delio:

We enclose herewith the public notice of hearing for the Zoning Board of Appeals for 8 p.m., April 16, 1973 in connection with the above together with the application for variance and 3 copies of a site development plan.

We also enclose herewith 3 Scott & Hoyt & Drake attorney checks payable as follows:

1. To the Town of New Windsor in the amount of \$25 for the application fee for commercial property.
2. To the Secretary of the Zoning Board of Appeals for New Windsor in the amount of \$25 for the public hearing minutes.
3. To the Town of New Windsor for the certified assessment list.

We will immediately arrange to serve by certified mail the 7 owners of surrounding properties within 500' as provided us by Mr. Wygant and submit the receipts at the hearing.

Very truly yours,

  
Julius Larkin Hoyt

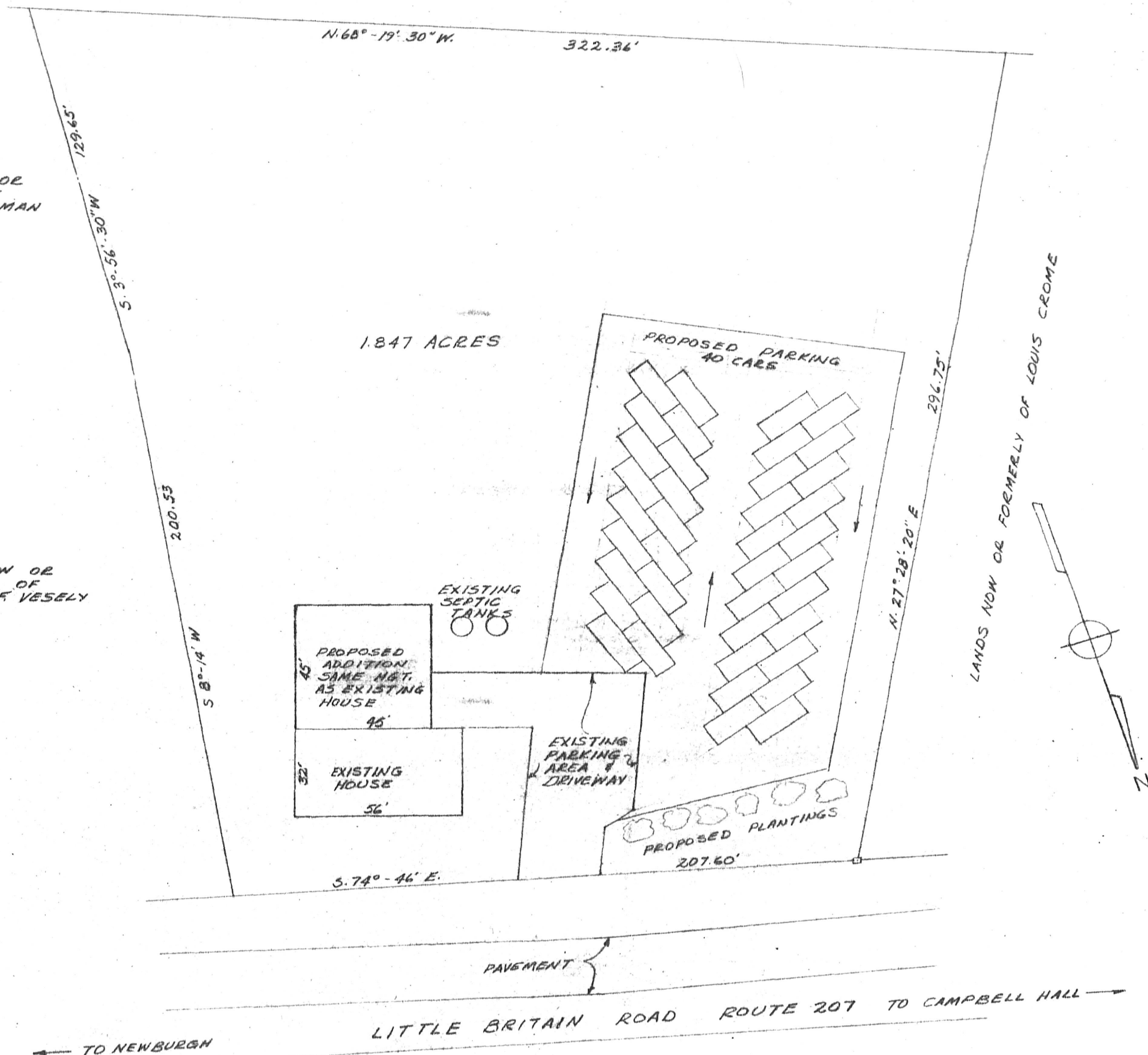
JLH:mc  
Encl.



LANDS NOW OR FORMERLY OF WALTER BAKER

LANDS NOW OR FORMERLY OF LEROY H. COLEMAN

LANDS NOW OR FORMERLY OF JOSEPH F. VESELY



# DS ZONE

	MIN REQUIRED	PROVIDED	VARIANCE
LOT AREA	5 ACRES	1.8 ACRES	3.2 ACRES
LOT WIDTH	200'	207'	—
LOT DEPTH	200'	294'	—
FRONT YD.	100'	24'	76'
SIDE YD.	50'	25'	25'
REAR YD.	50'	210'	—
OFF ST PARKING SPACES	39	40+	—

JOHN C. DOYLE P E & ASSOC.  
136 FULLERTON AVENUE  
NEWBURGH, NEW YORK  
PHONE 565-2327

ZONING VARIANCE APPLICATION  
HERBERT DOYNOW  
LITTLE BRITAIN ROAD  
TOWN OF NEW WINDSOR, N. Y.

PROJ NO 73-008-01  
SCALE 1 IN. = 30 FT.  
BY *JD* MARCH 3, 1973  
DWG. 1 REV. 0



*John C. Doyle*